

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/22/2022
--

----- X
IN THE MATTER OF THE COMPLAINT OF :

Hapag-Lloyd Aktiengesellschaft a/k/a
Hapag-Lloyd AG.

Petitioner,

AS OWNERS AND OPERATORS OF THE
M/V YANTIAN EXPRESS

----- X

1:19-cv-5731-GHW-RWL

ORDER

GREGORY H. WOODS, United States District Judge:

I. BACKGROUND

On February 8, 2022, Judge Robert W. Lehrburger endorsed the parties' proposal regarding how most efficiently to resolve a series of "non-test" claims against Defendant Ocean Network Express Pte. Ltd. ("ONE"). Dkt. No. 760. The legal issues raised by those claims were resolved by the Court on November 29, 2021 in connection with a prior motion to dismiss the so-called "test" claims. Dkt. No. 735. In order to avoid unnecessary duplication of effort by the parties and the Court, Judge Lehrburger adopted a process in which ONE would move to dismiss the relevant claims, and the parties would not provide additional substantive briefing, relying instead exclusively on the arguments presented in connection with their prior motion to dismiss. The parties did so. Dkt. Nos. 763-766, 769, 771, 775, 776, and 777. The parties agreed that the claims that were the subject of ONE's motion were set forth in a spreadsheet submitted in connection with its motion (the "Claims Spreadsheet"). Dkt. No. 764, Ex. A.

Judge Lehrburger issued a summary report and recommendation in response to ONE's motion on March 2, 2022 (the "Report"). Dkt. No. 779. Unsurprisingly, he makes the same recommendation with respect to the non-test claims as he did with respect to the test claims--namely, that the Court deny ONE's motion to dismiss. And his report and recommendation relies

on the reasoning set forth in his earlier report and recommendation to the Court. The parties filed timely objections to the Report. Dkt. Nos. 786 and 793. The objections too incorporate by reference the legal arguments presented in connection with their objections to Judge Lehrburger's previous report and recommendation.

II. LEGAL STANDARD

A district court reviewing a magistrate judge's report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2).

When a party timely objects to a magistrate's report and recommendation, a district court reviews *de novo* "those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). But where "the party makes only frivolous, conclusory or general objections, or simply reiterates her original arguments, the Court reviews the report and recommendation only for clear error." *Chen v. New Trend Apparel, Inc.*, 8 F. Supp. 3d 406, 416 (S.D.N.Y. 2014) (quoting *Silva v. Peninsula Hotel*, 509 F. Supp. 2d 364, 366 (S.D.N.Y. 2007)). "Further, the objections 'must be specific and clearly aimed at particular findings in the magistrate judge's proposal.'" *McDonagh v. Astrue*, 672 F. Supp. 2d 542, 547 (S.D.N.Y. 2009) (quoting *Molefe v. KLM Royal Dutch Airlines*, 602 F. Supp. 2d 485, 487 (S.D.N.Y. 2009)). The Court also reviews for clear error those parts of the report and recommendation to which no party has timely objected. 28 U.S.C. § 636(b)(1)(A); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

III. DISCUSSION

Like the parties and Judge Lehrburger, the Court follows form. The Court adopts the Report for the reasons articulated in its November 29, 2021 opinion. The applicable analysis from that opinion is incorporated by reference here.

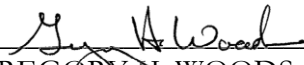
IV. CONCLUSION

For the foregoing reasons, the Court adopts Judge Lehrburger's Report in full. ONE's motion to dismiss the claims identified in the Claims Spreadsheet is DENIED.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 763.

SO ORDERED.

Dated: April 22, 2022
New York, New York



GREGORY B. WOODS
United States District Judge